

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 808

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO TAX-EXEMPT ORGANIZATIONS; REQUIRING REPORTING BY  
TAX-EXEMPT ORGANIZATIONS OF CERTAIN CONTRIBUTIONS AND TARGETED  
ELECTION-RELATED COMMUNICATION EXPENDITURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2A-4 NMSA 1978 (being Laws 1981,  
Chapter 37, Section 37, as amended) is amended to read:

"7-2A-4. EXEMPTIONS.--No corporate income or franchise  
tax shall be imposed upon:

A. insurance companies or reciprocal or inter-  
insurance exchanges [~~which~~] that pay a premium tax to the  
state; or

B. a trust organized or created in the United  
States and forming part of a stock bonus, pension or profit-  
sharing plan of an employer for the exclusive benefit of [~~his~~]

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underscoring material = new  
[bracketed material] = delete

1 the employer's employees or their beneficiaries, which trust is  
2 exempt from taxation under the provisions of the Internal  
3 Revenue Code [~~or~~

4 ~~C. religious, educational, benevolent or other~~  
5 ~~organizations not organized for profit which are exempt from~~  
6 ~~income taxation under the Internal Revenue Code, unless the~~  
7 ~~organization receives income which is subject to federal income~~  
8 ~~taxation as "unrelated business income" under the Internal~~  
9 ~~Revenue Code, in which case the organization is subject to the~~  
10 ~~corporate franchise tax, and the corporate income tax applies~~  
11 ~~to the unrelated business income]."~~

12 Section 2. A new section of the Corporate Income and  
13 Franchise Tax Act is enacted to read:

14 "[NEW MATERIAL] EXEMPTIONS.--

15 A. No corporate income or franchise tax shall be  
16 imposed upon religious, educational, benevolent or other  
17 organizations not organized for profit that are exempt from  
18 income taxation under the Internal Revenue Code unless:

19 (1) the organization receives income that is  
20 subject to federal income taxation as "unrelated business  
21 income" under the Internal Revenue Code, in which case the  
22 organization is subject to the corporate franchise tax, and the  
23 corporate income tax applies to the unrelated business income;  
24 or

25 (2) the organization engages in a targeted

1 election-related communication and the organization fails to  
2 file a disclosure report with the secretary of state in  
3 accordance with the provisions of Subsection B of this section,  
4 in which case the organization is subject to the corporate  
5 income tax and franchise tax.

6 B. Reports required by Paragraph (2) of Subsection  
7 A of this section shall be filed in accordance with the  
8 provisions of Paragraphs (1) through (3) of Subsection B of  
9 Section 1-19-29 NMSA 1978 and shall contain the following  
10 information:

11 (1) all expenditures related to the targeted  
12 election-related communication, the purpose of the expenditure  
13 and the name and address of the person or entity to whom an  
14 expenditure was made;

15 (2) each donation, grant or allocation  
16 received by the entity in excess of one thousand dollars  
17 (\$1,000), regardless of whether it is related to the targeted  
18 election-related communication;

19 (3) the name and address of the person or  
20 entity from which the donation, grant or allocation was  
21 received; and

22 (4) the date the expenditure was made.

23 C. For the purposes of this section:

24 (1) "general election" means the day of the  
25 general election;

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1 (2) "primary election" means the day of the  
2 primary election;

3 (3) "relevant electorate" means voters  
4 residing in the district of a candidate that is identified in a  
5 targeted election-related communication; and

6 (4) "targeted election-related communication":

7 (a) means any radio, television, cable  
8 or satellite broadcast or any print advertisement, including  
9 direct or bulk mailings, that: 1) refers to a clearly  
10 identified candidate for state office; 2) is made during the  
11 ninety days preceding a primary election or a general election  
12 for the office sought by the candidate; and 3) is targeted to  
13 the relevant electorate;

14 (b) does not include a voter guide  
15 allowed by the Internal Revenue Code for Section 501(c)(3)  
16 organizations;

17 (c) does not include communications from  
18 an organization to its own members or to persons who have  
19 requested the organization to send them information, including  
20 information conveyed on an organization's web site; and

21 (d) does not include a communication  
22 appearing in a news story, commentary or editorial distributed  
23 through the print media or the facilities of any broadcasting  
24 station, unless such facilities or print media are owned or  
25 controlled by any political party, political committee or

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1 candidate."

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